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6 UNITED STATES DISTRICT COURT  
7 WESTERN DISTRICT OF WASHINGTON  
8 AT TACOMA  
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10 BRIAN HOLM; KRISTIN HOLM,

11 Plaintiffs,

12 v.

13 FEDERAL BUREAU OF INVESTIGATION;  
14 U.S. DEPARTMENT OF JUSTICE,

15 Defendants.  
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Case No.

COMPLAINT FOR DECLARATORY AND  
INJUNCTIVE RELIEF FOR VIOLATION  
OF THE FREEDOM OF INFORMATION  
ACT, 5 U.S.C. § 552

Plaintiffs Brian Nordbjerg Holm (“Mr. Holm”), an individual, and Kristin Chapin Holm (“Mrs. Holm”), an individual, respectfully submit this Complaint for declaratory and injunctive relief alleging that Defendants Federal Bureau of Investigation (“FBI”) and U.S. Department of Justice (“DOJ”) have violated the Freedom of Information Act (“FOIA”), 5 U.S.C. § 552 *et seq.*, and ordering them to promptly comply with the law.

## I. INTRODUCTION

1. Beginning in May 2022, Mr. and Mrs. Holm filed multiple FOIA requests with Defendant FBI seeking the release of unredacted documents concerning an investigation conducted by Defendant FBI between July 2020 and May 2022.

2. Although some of the Defendants have acknowledged receipt of those requests, not a single document has been produced—or the reason for such withholding—as required by law.

3. “Disclosure, not secrecy, is the dominant objective” of the Freedom of Information Act, *Dep’t of Interior v. Klamath Water Users Protective Ass’n*, 532 U.S. 1, 8 (2001) (internal quotation marks and citations omitted), and the Act “focuses on the citizens’ right to be informed about ‘what their government is up to.’” *D.O.J. v. Reporters Comm. for Freedom of the Press*, 489 U.S. 749, 750, 773 (1989) (citation omitted).

4. Defendant FBI agreed to produce the requested records, but contends it will take 67 months to do so. Such delays violate the purpose of FOIA. *See Brennan Ctr. for Just. at New York Univ. Sch. of L. v. United States Dep’t of Just.*, No. CV 18-1860 (RDM), 2021 WL 2711765, at \*7 (D.D.C. July 1, 2021) (“[FOIA’s] statutory goals—efficient, *prompt*, and full disclosure of information— can be frustrated by agency actions that operate to delay the ultimate resolution of the disclosure request.”) (emphasis in original) (citing *Senate of Puerto Rico ex rel. Judiciary Comm. v. U.S. Dep’t of Just.*, 823 F.2d 574, 580 (D.C. Cir. 1987)).

5. Because Defendants have violated their duties under federal law, Mr. and Mrs. Holm now request that this Court order Defendants to promptly comply, enjoin them from further inaction, and reimburse their legal fees and costs incurred as a result.

**II. PARTIES**

6. Plaintiffs Brian Holm and Kristin Holm are Washington residents who currently reside in Buckley.

7. Defendant FBI is a federal agency within the meaning of 5 U.S.C. § 552(f) and component of Defendant DOJ, tasked with domestic intelligence and security and serves as the principal law enforcement agency of the United States. Mr. and Mrs. Holm are informed and believe that Defendant FBI has possession and control of the records sought by the pertinent requests.

8. Defendant DOJ is a federal agency within the meaning of 5 U.S.C. § 552(f) and is a department of the federal government tasked with enforcement of federal law and administration of justice for the United States. Mr. and Mrs. Holm are informed and believe that the DOJ has possession and control of the records sought by the pertinent requests by virtue of its control over Defendant FBI.

**III. JURISDICTION**

9. This Court has subject-matter jurisdiction over this action and personal jurisdiction over the parties under 5 U.S.C. § 552(a)(4)(B) and 28 U.S.C. § 1331.

**IV. VENUE**

10. Venue lies properly in this Court pursuant to 5 U.S.C. § 552(a)(4)(B) because Mr. and Mrs. Holm reside in this judicial district. Furthermore, venue is proper under 28 U.S.C. § 1391 because their requests and communications were initiated by them from Buckley, Washington, and therefore, a substantial part of the events giving rise to the claim occurred in this judicial district.

**V. FACTS**

**Mr. and Mrs. Holm's FOIA Requests**

11. Beginning in May 2022, Mr. and Mrs. Holm made FOIA requests to obtain records regarding an FBI investigation.

12. Mr. and Mrs. Holm resubmitted their FOIA request multiple times in order to have it accepted by Defendant FBI.

13. On August 30, 2022, Defendant FBI informed Mr. and Mrs. Holm that it located approximately 746 pages of potentially responsive records in response to their Freedom of Information /Privacy Acts (“FOIPA”) request, number 1555217-000. *See Exhibit A.* Defendant FBI also located responsive audio and video files. *Id.*

14. On November 17, 2022, Defendant FBI informed Mr. and Mrs. Holm that it was “searching for, retrieving, scanning, and evaluating files that may be responsive to the FOIPA.” *See Exhibit B.* Defendant FBI also noted that the files would be forwarded to a “perfected backlog” before being assigned to an analyst. *Id.*

15. On December 8, 2022, Defendant FBI’s “Negotiation Team” contacted Mr. and Mrs. Holm, informing them that their request would take *at minimum* 67 months to complete. *See Exhibit C.* In this communication, Defendant FBI asked if Mr. and Mrs. Holm would be willing to reduce the scope of their request. *Id.* Defendant FBI did not state whether it started processing Mr. and Mrs. Holms’ request.

16. On December 10, 2022, the Mr. and Mrs. Holm informed Defendant FBI they did not want to reduce the scope of the request. *See Exhibit C.* On December 12, 2022, Defendant FBI acknowledged receipt and would move forward with processing the request. *Id.*

17. Since December 12, 2022, Defendant FBI has never provided any follow up information and has produced none of the responsive documents it earlier identified.

## VI. CLAIMS FOR RELIEF

### Violation of Freedom of Information Act (FOIA)

#### For Failure to Disclose Responsive Records

18. Plaintiffs Mr. and Mrs. Holm allege and incorporate as set forth fully herein each and every allegation contained in the above paragraphs.

19. Defendants have violated 5 U.S.C. § 552(a)(3)(A) by failing to promptly release agency records in response to Mr. and Mrs. Holm’s FOIA requests, which reasonably described the records sought as detailed above.

20. Defendants have violated 5 U.S.C. § 552(a)(6)(A) by failing to timely respond to the FOIA request detailed above.

21. Defendants have violated 5 U.S.C. § 552(a)(8)(A) by failing to disclose information that is not subject to an exemption, consider whether partial disclosure of information is possible, or take reasonable steps necessary to segregate and release nonexempt information.

22. Injunctive relief is authorized under 5 U.S.C. §552(a)(4)(B) because Defendants continue to improperly withhold records responsive to Plaintiffs' FOIA request and do so as a matter of policy or practice, in violation of the FOIA. Mr. and Mrs. Holm have suffered injury and will continue to suffer injury from Defendants' illegal refusal to timely respond and provide records.

23. Declaratory relief is authorized under 28 U.S.C. § 2201 because an actual controversy exists regarding Defendants' failure to respond and improper withholding of the records in violation of the FOIA. An actual controversy exists because Mr. and Mrs. Holm contend that Defendants' continuing failure to respond and to release the records violates the law.

## **VII. PRAYER FOR RELIEF**

WHEREFORE, Plaintiffs Mr. and Mrs. Holm requests the Court award the following relief:

A. Declare that Defendants' failure to disclose responsive records violates the FOIA;

B. Declare unlawful and enjoin Defendants' practice of failing to comply with their required duties upon receipt of a properly submitted request under the FOIA;

C. Order Defendants and all entities and agents, or other persons acting by, through, for, or on behalf of Defendants, to conduct a prompt, reasonable search for records responsive to Mr. and Mrs. Holm's FOIA requests, without imposing search or duplication fees pursuant to 5 U.S.C. § 552(a)(4)(A);

D. Enjoin Defendants and all entities and agents, or other persons acting by, through, for, or on behalf of Defendants, from continuing to withhold records responsive to Mr. and Mrs. Holm's FOIA requests and order them to promptly produce the same;

1 E. Award Mr. and Ms. Holm reasonable attorneys' fees and costs pursuant to 5  
2 U.S.C. § 552(a)(4)(E) and 28 U.S.C. § 2412; and

3 F. Grant all other such relief to Mr. and Mrs. Holm as the Court deems just and  
4 equitable.

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6 DATED: March 6, 2023

Respectfully submitted,

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*\*pro hac vice application forthcoming*